

## **1109-3 ADA/Section 504 Accommodation and Complaint Procedures - Policy**

### 1. Definitions

- A. The "ADA Coordinator" is the Department's Risk Manager who has overall responsibility for the Department's ADA program. The ADA Coordinator is assisted by ADA Officers who perform the duties defined as follows in paragraphs 2. and 3.
- B. The "Employee ADA Officer" is responsible for investigating and providing prompt and equitable resolution of ADA/Section 504 accommodation requests and/or complaints filed by DWS employees. One or more members of the department's Human Resources Office shall accomplish the duties of the Employee ADA Coordinator as an additional duty.
- C. The "Customer ADA Officer" is responsible for investigating and providing prompt and equitable resolution of ADA/Section 504 accommodation requests and/or complaints filed by customers. One or more members of the department's Office of Quality and Internal Audit shall accomplish the duties of the Customer ADA Officer as an additional duty.
- D. "Customer" is an individual who is interested in or is actively receiving one or more services provided by the Department of Workforce Services, and is not an active employee of the Department of Workforce Services.
- E. "Employee" is an active employee of the Department of Workforce Services.
- F. "Accommodation" is a reasonable modification to DWS physical and/or programmatic resources to ensure equal access and opportunities for persons with disabilities. Requests for accommodations are not considered complaints, as they are not filed pursuant to DWS Rule [R982-101](#) or [29 CFR Part 37](#)
- G. "Complaint" is a formal ADA/Section 504 related allegation filed by or on behalf of a customer.

### 2. Requests for Accommodation

- A. The Department shall consider every request for accommodations under ADA/Section 504. A request for an accommodation may be submitted as follows:
  - 1) Customer requests can be submitted to any DWS employee. Requests for accommodations that are not submitted initially to the Customer ADA Officer shall be forwarded thereto within one business day of receipt.
  - 2) Employee requests should be submitted to the Employee ADA Officer, supervisor, manager or director. Requests for accommodations not submitted initially to the Employee ADA Officer shall be forwarded thereto within one business day of receipt.
- B. The ADA Coordinator or designated ADA Officers shall inform State Risk Management and the Department's legal staff regarding all ADA matters. In complex matters the Department ADA Coordinator or designated ADA Officer shall consult with State Risk Management prior to taking any action to either approve or deny a request for accommodation.
- C. The appropriate ADA Officer will consult with the ADA Coordinator, as necessary, in approval or denial of each request for accommodation in accordance with requirements set forth in the Americans with Disability Act and/or Section 504.
- D. All requests for additional information will comply with the requirements set forth in the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.
- E. Medical records created for ADA purposes shall be maintained by the Department in accordance with DHRM Rule R477-2-5(6).
- F. Within 10 working days of receiving a request and required documentation for an accommodation, the appropriate ADA Officer shall either issue a written decision stating the action that will be taken on the request or notify the requestor in writing that the decision is being delayed and the amount of additional time needed to issue a decision.
  - 1) The party initiating the request and the Department may agree in writing to waive or extend the time limits beyond 10 working days.

### 3. Appeals

- A. A customer or employee may appeal a decision to deny an ADA request for accommodation.

- 1) The ADA Coordinator or designed ADA Officer's decision regarding requests for accommodation may be appealed to the Department's Executive Director, or his/her designee within five business days of receipt of the decision.
- 2) Within 10 working days after receiving an appeal regarding an ADA accommodation, the Executive Director shall either issue a written decision stating the action that will be taken on the appeal, or notify the appellant in writing that an additional amount of time is needed to issue a decision.
- 3) The party initiating the appeal and the Department may agree in writing to waive or extend the time limits beyond 10 working days.

#### 4. Complaints

- A. A customer **or** employee may file a complaint with the Department pursuant to DWS Rule R982-101.
  - 1) Customer and employee complaints must be filed in writing, and must be submitted to the appropriate ADA Officer.
  - 2) Additionally, with or without exhausting DWS procedures and pursuant to 29 CFR Part 37, complainants alleging discrimination on the basis of disability may file with the following:

The Director, Civil Rights Center  
 U.S. Department of Labor  
 200 Constitution Avenue, NW - Room N4123  
 Washington, DC 20210

-or-

Office of Civil Rights  
 U.S. Department of Health and Human Services  
 Federal Office Building  
 1601 Stout Street  
 Denver, CO 80295-3539

For employment related complaints, based on disability:

Utah Anti-Discrimination and Labor Division  
 160 East 300 South  
 Salt Lake City, UT 84114  
 (801) 530-6801  
 (800) 222-1238

- or -

Equal Employment Opportunity Commission  
 4520 North Central Avenue, Ste 300  
 Phoenix, AZ 85012-1848  
 (602)-640-2598

- 3) All ADA/Section 504 discrimination complaints filed with the Customer ADA Officer shall be processed in accordance with the procedures and time frames identified in the Equal Opportunity section of DWS [Policy 1407](#).